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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

EXAMINER	
HARVEY, DIONNE	

ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/976,974	REMBOSKI ET AL.	
	Examiner	Art Unit	
	Dionne N Harvey	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 3/29/04; 10/17/03; 11/15/02; and 05/20/02
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: descriptive numbers in page 9 of the specification fail to coincide with the descriptive numbers in figure 2. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims **8,18 and 30** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8 and 30 recite, "wherein the service state comprises a voice activated service state". Does the Applicant mean that the user then able to speak with a calling party? Does the Applicant means that in this particular service state, the user is able to initiate device capabilities through voice activation? Clarification is required.

Claim 18 recites "the service state comprises a completion delay service state". What constitutes a delay? Is the caller placed on hold? Is the caller forwarded to voice mail? Clarification is required. The limitation must be supported by the applicant's specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **1,7,13 and 17-20** are rejected under 35 U.S.C. 102(b) as being anticipated by **Mizikovsky (US 5,559,860).**

Regarding claim 1, Mizikovsky teaches a method of configuring the service state of a wireless communication device, the method comprising the steps of: storing identifying data and assigning a response category based upon the resultant identification, which reads on "receiving a set of device operating parameters defining a preferred service state of the wireless communication device for a device operator"; the response category including one of various ringing indications, various accessory responses, a muted ringing alert, and forwarding to an peripheral device, as discussed in **column 4, lines 55-60 and column 6 lines 11-17**, thereby reading on "the device operating parameters including a context parameter "; the ID buffer and CPU cooperate to compare calling party identifying data with stored identifying data, **see column 8, lines 8-12**, the calling party identifying data reading on "the receiving context data from at least one source of context data"; and once the calling party data is received and compared with identifying data previously stored in the caller ID memory, the appropriate response category is initiated, **see column 8, lines 13-20,** thereby reading

on "setting the service state of the wireless communication device in accordance with the context parameter and the context data."

Regarding claim 7, Mizikovsky teaches that the service state comprises at least one of a call forwarding service state and a call forwarding to voice mail service state, **see column 6, lines 51-61**.

Regarding claim 13, **in figure 1,** Mizikovsky teaches that the step of receiving a set of device operating parameters comprises providing a personal portable user interface **42**, and receiving the set of device operating parameters via the personal portable user interface see **column 7, lines 14-19**.

Regarding claim 17, Mizikovsky teaches that the service state comprises a ringing mode service state **see column 6, lines 30-43**.

Regarding claim 18, **as best understood with regard to the 35 U.S.C. 112 second paragraph rejection above**, Mizikovsky appears to teaches that the service state comprises a completion delay service state.

Regarding claim 19, **in column 4, lines 56-60**, Mizikovsky teaches that the service state comprises a calling party identification service state.

Regarding claim 20, Mizikovsky teaches that the wireless communication device comprises a cellular telephone.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **1-5, 9-12, 14, 15, 20-27, 31,32,34 and 37-41** are rejected under 35 U.S.C. 102(e) as being anticipated by **Lange (US 6,704,564).**

Regarding claim 1, Lange teaches a method of determining whether to transmit a particular message to a service center for a telemantics system through the monitoring of defined conditions; in **column 1, lines 27-30, column 3, lines 25-30,** Lange teaches that data relating to vehicle conditions such as engine status, airbag status, cargo status and other vehicle systems is accumulated, said data reading on "device operating parameters" which includes "context parameter"; The state in which the defined conditions indicate that a message should or should not be transmitted to a service center reads on "a preferred service state"; in **column 6, lines 19-26**, Lange teaches that said parameters are received via sensors, which reads on "receiving context data from at least one source of context data"; and in **column 4, lines 15-17**, Lange teaches that one or more conditions must be satisfied for the device to transmit a message to a service center, which reads on "setting the service state of the wireless communication device in accordance with the context parameter and the context data."

Regarding claim 2, Lange teaches that the context parameter and the context data each relate to a speed of the wireless communication device when the wireless communication device is the vehicle, **see column 4, lines 59-60**.

Regarding claim 3, Lange teaches that the context parameter and the context data each relate to a location of the wireless communication device when the wireless communication device is the vehicle, **see column 4, line 59**.

Regarding claim 4, Lange teaches that the context parameter and the context data each relate to time, **see column 4, lines 64-65**.

Regarding claim 5, in **column 8, lines 30-38**, Lange teaches that the device has medical and emergency applicability, which the Examiner has interpreted as reading on "context parameter and the context data each relate to an activity of the device operator", as it relates to operator inactivity in a medical emergency.

Regarding claim 9, Lange teaches that the step of receiving context data comprises receiving data relating to the operation of a vehicle.

Regarding claim 10, in **column 4, lines 15-20**, Lange teaches that the data relating to the operation of a vehicle comprises vehicle condition data and vehicle environment data.

Regarding claim 11, in **column 4, lines 15-17**, Lange teaches that one or more conditions must be met pertaining to various vehicle systems thereby reading on "the step of receiving data relating to the operation of the vehicle comprises fusing data within the vehicle and providing the fused data to the wireless communication device", when the wireless communication device is a transceiver **220.**

Regarding claim 12, Lange teaches that the telecommunications device may be any device which communicates by electronic transmissions of signals, and said device being configured to operate in relation to a vehicle system, reading on "the step of

receiving data relating to the operation of the vehicle comprises communicatively coupling the wireless communication device with the vehicle", when the wireless communication device is a transceiver **220.**

Regarding claim 14, Lange teaches that the context parameters may relate to weather, which the Examiner has interpreted as including ambient lighting.

Regarding claim 15, Lange teaches that the context parameters may relate to location (**GPS**), which the Examiner has interpreted as including altitude.

Regarding claims 20,21 and 22, in **column 3, lines 18-20**, Lange teaches that the telecommunications device may be any device which communicates by electronic transmissions of signals, thereby reading on a cellular telephone, a pager or a personal digital assistant. Also see **column 8, lines 31-38.**

Regarding claim 23, as described in the rejection of claim 1 above, Lange teaches in **column 6, lines 19-26**, that parameters are received via sensors, reading on " a sensor fusion module coupled to receive context data from at least one sensor"; a memory **130** including stored therein a context parameter; and a processor **190** for adjusting a service state of the wireless communication device based upon the context data and the context parameter.

Regarding claim 24, Lange teaches that the context parameter and the context data each relate to a speed of the wireless communication device when the wireless communication device is a vehicle, **see column 4, lines 59-60**.

Regarding claim 25, Lange teaches that the context parameter and the context data each relate to the location of the wireless communication device when the wireless communication device is a vehicle, **see column 4, line 59**.

Regarding claim 26, Lange teaches that the context parameter and the context data each relate to time, **see column 4, lines 64-65**.

Regarding claim 27, in **column 8, lines 30-38**, Lange teaches that the device has medical and emergency applicability, which the Examiner has interpreted as reading on "context parameter and the context data each relate to an activity of the device operator", as it relates to operator inactivity in a medical emergency.

Regarding claim 31, Lange teaches that the context parameters may relate to weather, which the Examiner has interpreted as including ambient lighting.

Regarding claim 32, Lange teaches that the context parameters may relate to location (**GPS**), which the Examiner has interpreted as including altitude.

Regarding claim 34, Lange teaches a state in which the defined conditions indicate that a message should be transmitted to a service center, reading on "a ringing mode service state", as broadly claimed.

Regarding claims 37,38,39,40 and 41, in **column 3, lines 18-20**, Lange teaches that the telecommunications device may be any device which communicates by electronic transmissions of signals, thereby reading on "a cellular telephone", "a pager" "a personal digital assistant" "a computer" and "a web browser", also see **column 8, lines 31-38**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims **6, 8,16,28,29,30,33,35 and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lange (US 6,704,564)** in view of **Takagi (US 6,718,187).**

Regarding claims 6 and 28, Lange does not clearly teach that the context parameters relate to the cognitive load of the device operator. Takagi recognizes a need in the art for configuring the service state of a device dependent upon the driving burden of the device operator, thereby reading on "the context parameter and the context data each relate to a cognitive load of the device operator." It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachigs of Lange and Takagi, for the purpose of limiting potential distractions to a vehicle driver thereby preserving vehicle safety.

Regarding claims 16 and 33, Takagi takes into account any variety of conditions, which would potentially inhibit the device operator from noticing the reception of call. The Examiner interprets the disclosure of Takagi as including ambient sound within the vehicle. Since a high degree of ambient sound might be indicative of a heated conversation between in the device operator and vehicle passengers, further distracting the driver with an audible ring could potentially cause the vehicle to be operated outside of a predetermined margin of safety.

Regarding claim 29, in **figure 2**, Takagi teaches call forwarding to a voice mail state **S160** if the cognitive load of the driver is high.

Regarding claims 8 and 30, **as best understood with regard to the 35 U.S.C. 112 second paragraph rejection above,** shown in **figure 8**, Takagi appears to teach that a service state includes a voice activated state **S92.**

Regarding claim 35, **as best understood with regard to the 35 U.S.C. 112 second paragraph rejection above,** Takagi appears to teaches a completion delay service state **S160**.

Regarding claim 36, in **column 6, lines 45-48**, Takagi teaches an incoming call detection function for detecting the telephone number of the received call.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hellebust (US 6,628,194) teaches an apparatus for filtering incoming telecommunications.

Bremer (US 6,018,671) teaches a device for selectively accepting calls.

Liebenow (US 6,530,083) teaches a system for personalized settings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N Harvey whose telephone number is 703-305-1111. The examiner can normally be reached on 9-6:30 M-F and alternating Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Harvey

CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600